IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

WEDNESDAY, THE 1ST AUGUST 2007 / 10TH SRAVANA 1929

WP(C).No. 7657 of 2006(J)

PETITIONER:

PRAVEEN J.,
S.A.VILLA, KOYIPALLY JUNCTION, THATHAMPILLY P.O.,
ALAPPUZHA-688 013.

BY ADV. SRI.C.S.ABDUL SAMMAD
SRI.V.D.BALAKRISHNA KARTHA
SMT.V.K.SHEMEENA

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY ITS PRINCIPAL SECRETARY, HIGHER EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT, TRIVANDRUM.**

2. **THE DIRECTOR OF COLLEGIATE EDUCATION, ERNAKULAM.**

3. **THE PRINCIPAL, S.D.COLLEGE, SANATHANAPURAM, ALAPPUZHA.**

4. **THE MANAGER, S.D.COLLEGE, SANATHANAPURAM, ALAPPUZHA.**

BY ADV. SRI.K.ANAND (A.201) for R3 & R4
SMT.LATHA KRISHNAN
BY SR.GOVERNMENT PLEADER SRI.T.T.MUHAMOOD for R1 & R2

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01/08/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

WPC.NO.7657/2006 J

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE SERVICE CERTIFICATE DTD. 29/01/2005 ISSUED BY THE 3RD RESPONDENT.

EXT.P2: COPY OF THE REPRESENTATION DTD. 15/01/2005 SUBMITTED BY THE PETITIONER TO THE 4TH RESPONDENT.

EXT.P3: COPY OF THE REPRESENTATION DTD. 01/08/2005 SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT.

4TH RESPONDENT'S EXHIBITS:

EXT.R4(A): COPY OF THE APPOINTMENT ORDERS DTD. 17/09/2001,1/06/2002 AND 2/06/2003 ISSUEDBY THE 4TH RESPONDENT.

EXT.R4(B): COPY OF THE SERVICE DETAILS OF THE PETITIONER.

EXT.R4(C): COPY OF THE STATEMENT OF WORKLOAD IN THE DEPARTMENT OF PHYSICS AS ON 1/11/2002.

EXT.R4(D): COPY OF THE BILL DTD. 26/03/2003.

EXT.R4(E): COPY OF THE LETTER OF THE 2ND RESPONDENT DTD. 15/09/2004.

/TRUE COPY/

P.S.TO JUDGE

KSS

A.K. Basheer, J.

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W.P(C) No.7657 of 2006

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Dated this the 1st day of August, 2007.

J U D G M E N T

Petitioner claims that he had worked as Guest Lecturer in the college under the management of respondent No.4 in 5 short spells as indicated in paragraph 2 of the writ petition, starting from September 17, 2001 till March 31, 2004. It is seen admitted by the petitioner that he was paid a sum of Rs.31,200/- towards wages for the period from June 1, 2002 till December 31, 2002. He contends that he is entitled to get a total sum of Rs.1,08,800 , out of which only a sum of Rs,31,200/- had been paid as indicated above. The balance due is stated to be Rs.77,600/-.

2. The primary prayer in the writ petition is to issue a writ of mandamus or such other appropriate writ, order or direction to the respondents to pay the salary to him for the period he had worked as Guest Lecturer in the college in question with 12% interest thereon for the delayed payment.

3. Learned Government Pleader submits that the petitioner had worked against a post which was not sanctioned. There were only 10 sanctioned posts in the Department of Physics in the college against which 10 Lecturers had already been working .Therefore obviously petitioner could not have been engaged as Guest Lecturer by the management.

4. Per contra, it is contended by the management that Guest Lecturers were engaged on the basis of the workload assessed in the college. In view of the order that I propose to pass, I do not deem it necessary to go into those disputed questions of fact, which in my

view have to be necessarily considered with reference to the relevant records in the University as well as in the Directorate. Learned counsel for the petitioner also submits that petitioner will be satisfied if an appropriate direction is issued to the Deputy Director of Collegiate Education, Ernakulam, to take a decision on Ext.P3 representation in which the petitioner has highlighted his grievances. Since the Deputy Director of Collegiate Education, Ernakulam is not a party, it is ordered that the said respondent be impleaded as additional respondent No.5. Learned counsel for the management also submits that the officer concerned may be directed to take a decision in the matter after affording sufficient opportunity to the manager as well. to produce the relevant records.

5. In the above facts and circumstances the writ petition is disposed of with a direction to addl. respondent No.5 to consider and pass orders on Ext.P3 strictly on its merit and in accordance with law, as expeditiously as possible, at any rate within two months from the date of receipt of a copy of this judgment. Needless to mention that the petitioner and the management shall be afforded sufficient opportunity to be heard before any orders are passed.

6. It is made clear that it will be open to additional respondent No.5 to call for the necessary records from the college concerned, ascertain the exact position and take a decision in the matter in consultation with the University and strictly in accordance with law.

Petitioner shall produce a certified copy of the judgment along with a copy of the writ petition before respondent No.1 for compliance.

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A.K. **Basheer**
Judge.